

1  
2  
3  
4  
5  
6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 STARR INDEMNITY & LIABILITY  
10 COMPANY,

11 Plaintiff,

12 v.

13 POINT RUSTON LLC *et al.*,

14 Defendants.

Case No. C20-5539

ORDER STRIKING MOTION  
FOR ATTORNEY'S FEES

15 This matter comes before the Court on defendants' "Motion for Olympic Steamship  
16 Fees" (Dkt. # 68). Having reviewed the motion and the remainder of the record, the Court finds  
17 as follows:

18 On August 17, 2021, the Court granted summary judgment in favor of defendants,  
19 finding that "[plaintiff] has a duty to defend and indemnify defendants in connection with the  
20 underlying action, and [plaintiff] is not entitled to reimbursement of defense costs." Dkt. # 62 at  
21 14. On August 28, 2021, defendants filed the unopposed motion for attorney's fees pursuant to  
22 Olympic S.S. Co. v. Centennial Ins. Co., 117 Wn.2d 37 (1991), currently before the Court. See  
23 generally Dkt. # 68. Defendants' motion does not differentiate between attorney's fees related  
24 to the duty to defend and the duty to indemnify. See id. On June 1, 2022, the Ninth Circuit  
25 issued a memorandum disposition affirming the Court's ruling that plaintiff has a duty to  
26 defend, reversing the Court's ruling that plaintiff has a duty to indemnify on the ground that the  
27 Court ruled on the issue *sua sponte* without giving plaintiff reasonable notice to develop the  
28 facts to oppose this portion of the summary judgment order, and vacating the Court's denial of  
ORDER STRIKING MOTION FOR  
ATTORNEY'S FEES - 1

1 costs. See Dkt. # 76 (memorandum disposition); see also Dkt. # 77 (mandate). On June 29,  
2 2022, the Ninth Circuit entered an order granting defendants' motion for appeal-related  
3 attorney's fees pursuant to Olympic Steamship related to their arguments on the duty to defend  
4 but denying attorney's fees related to their arguments on the duty to indemnify. See Dkt. # 81.

5 In light of the Ninth Circuit's rulings issued between the filing of defendants' motion for  
6 attorney's fees and the date hereof, the Court STRIKES defendants' motion for attorney's fees  
7 (Dkt. # 68) without prejudice to defendants' ability to file a new motion for attorney's fees  
8 related only to the duty to defend issue.

9 IT IS SO ORDERED.

10 DATED this 3<sup>rd</sup> day of August, 2022.

11 

12 Robert S. Lasnik  
13 United States District Judge  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28